

CHAPTER 310

EDUCATION - POSTSECONDARY

HOUSE BILL 21-1306

BY REPRESENTATIVE(S) Garnett and Geitner, Esgar, McLachlan, Bennett, Bird, Boesenecker, Cutter, Duran, Exum, Herod, Hooton, Jackson, Jodeh, Kipp, Lontine, McCluskie, Michaelson Jenet, Mullica, Ricks, Snyder, Young; also SENATOR(S) Rodriguez and Lundeen, Bridges, Buckner, Pettersen, Zenzinger, Fields, Gonzales, Rankin, Sonnenberg, Garcia.

AN ACT

CONCERNING APPROVALS OF CERTAIN ENTITIES TO OPERATE AS POSTSECONDARY EDUCATIONAL ENTITIES IN THE STATE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 23-2-103.3, **amend** (1)(b), (2), and (3); and **add** (1)(c) as follows:

23-2-103.3. Authorization to operate in Colorado - renewal - definitions.

(1) (b) After receiving an application, the department shall review the application to determine whether the private college or university is institutionally accredited by ~~a regional or national~~ AN INSTITUTIONAL OR PROGRAMMATIC accrediting body recognized by the United States department of education OR IS ACCREDITED BY A PROGRAMMATIC ACCREDITING BODY RECOGNIZED BY THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION AS HAVING THE ABILITY TO ACCREDIT A FREESTANDING, SINGLE-PURPOSE INSTITUTION OF CONSTRUCTION EDUCATION. The department shall not recommend and the commission shall not approve an application from a private college or university that, in the two years preceding submission of the application, has had its accreditation suspended or withdrawn or has been prohibited from operating in another state or that has substantially the same owners, governing board, or principal officers as a private college or university that, in the two years preceding submission of the application, has had its accreditation suspended or withdrawn or has been prohibited from operating in another state.

(c) AS USED IN SUBSECTIONS (1) AND (2) OF THIS SECTION, "ACCREDITED" MEANS THAT AN INSTITUTION IS INSTITUTIONALLY ACCREDITED BY:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(I) AN INSTITUTIONAL ACCREDITING BODY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION;

(II) A PROGRAMMATIC ACCREDITING BODY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION, WHICH BODY MAY INSTITUTIONALLY ACCREDIT A FREESTANDING, SINGLE-PURPOSE INSTITUTION; OR

(III) A PROGRAMMATIC ACCREDITING BODY RECOGNIZED BY THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION, WHICH BODY MAY INSTITUTIONALLY ACCREDIT A FREESTANDING, SINGLE-PURPOSE INSTITUTION OF CONSTRUCTION EDUCATION.

(2) To operate in Colorado, a private college or university shall be institutionally accredited on the basis of an on-site review by ~~a regional or national~~ AN INSTITUTIONAL OR PROGRAMMATIC accrediting body recognized by the United States department of education OR, FOR CONSTRUCTION EDUCATION INSTITUTIONS, THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION; except that a private college or university may operate for an initial period without accreditation if the commission determines, in accordance with standards established by the commission, that the private college or university is likely to become accredited in a reasonable period of time or is making progress toward accreditation in accordance with the accrediting body's policies. The commission may grant a provisional authorization to a private college or university to operate for an initial period without accreditation. The private college or university shall annually renew its provisional authorization and report annually to the commission concerning the institution's progress in obtaining accreditation.

(3) A private college or university shall immediately notify the department of any material information related to an action by the institution's accrediting body concerning the institution's accreditation status, including but not limited to reaffirmation or loss of accreditation, approval of a request for change, a campus evaluation visit, a focused visit, or approval of additional locations. In addition, the institution shall immediately notify the department if the institution's accrediting body is no longer recognized by the United States department of education OR, IF APPLICABLE, THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION.

SECTION 2. In Colorado Revised Statutes, 23-2-103.4, **amend** (2)(d) as follows:

23-2-103.4. Authorization - revocation - probationary status. (2) With regard to the authorization of a private college or university, the commission may:

(d) Revoke the private college's or university's authorization or place the private college or university on probationary status if the United States department of education OR, IF APPLICABLE, THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION, ceases to recognize the institution's accrediting body OR IF THE PROGRAMMATIC ACCREDITING BODY'S SCOPE OF RECOGNITION CEASES TO INCLUDE THE ABILITY TO ACCREDIT A FREESTANDING, SINGLE-PURPOSE INSTITUTION.

SECTION 3. In Colorado Revised Statutes, 23-2-103.8, **amend** (2)(b)(I)(A) and (2)(c)(I) as follows:

23-2-103.8. Financial integrity - surety. (2) (b) (I) A private college or university may demonstrate financial integrity by meeting the following criteria:

(A) The institution has been accredited for at least ten years by an accrediting agency BODY that is recognized by the United States department of education OR, IF APPLICABLE, THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION;

(c) A private college or university may demonstrate financial integrity by meeting the following criteria:

(I) The institution has received and maintains full accreditation without sanction from an accrediting agency BODY that is recognized by the United States department of education OR, IF APPLICABLE, THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION, which accrediting agency BODY requires the institution to maintain surety or an escrow account or has affirmatively waived or otherwise removed the requirement for the institution;

SECTION 4. In Colorado Revised Statutes, 23-64-112, **amend** (1)(s); and **add** (1)(t) as follows:

23-64-112. Minimum standards. (1) In establishing the criteria required by section 23-64-108 (1)(a), (1)(b), and (1)(j), the board shall observe and require compliance with at least the following minimum standards for all schools:

(s) That the school shall not deny enrollment of a student or make any distinction or classification of students on account of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, or marital status; AND

(t) THAT A SCHOOL OFFERING AN ASSOCIATE DEGREE IS ACCREDITED BY AN INSTITUTIONAL OR PROGRAMMATIC ACCREDITING BODY THAT IS OFFICIALLY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION OR THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION.

SECTION 5. In Colorado Revised Statutes, 23-64-123, **amend** (1)(k); and **add** (1)(l) as follows:

23-64-123. Deceptive trade or sales practices. (1) It is a deceptive trade or sales practice for:

(k) A school or agent to designate or refer to its sales representatives as "counselors" or "advisors" or to use words of similar import that have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives or agents; OR

(l) A SCHOOL TO ADVERTISE OR OTHERWISE REPRESENT THAT IT IS ACCREDITED UNLESS THE SCHOOL IS ACCREDITED BY AN ACCREDITING BODY THAT IS RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION OR IS ACCREDITED BY A PROGRAMMATIC ACCREDITING BODY RECOGNIZED BY THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION AS HAVING THE ABILITY TO ACCREDIT A FREESTANDING, SINGLE-PURPOSE INSTITUTION OF CONSTRUCTION EDUCATION.

SECTION 6. In Colorado Revised Statutes, 23-64-104, **add** (2) as follows:

23-64-104. Exemptions. (2) AN EDUCATIONAL INSTITUTION OR EDUCATIONAL SERVICE DESCRIBED IN SUBSECTION (1) OF THIS SECTION MAY WAIVE ITS EXEMPT STATUS IN ORDER TO APPLY FOR AUTHORIZATION TO OPERATE A PRIVATE OCCUPATIONAL SCHOOL PURSUANT TO THIS ARTICLE 64 BY SUBMITTING THE WAIVER IN WRITING TO THE BOARD. THE FOLLOWING APPLIES TO AN EDUCATIONAL INSTITUTION OR EDUCATIONAL SERVICE THAT WAIVES ITS EXEMPT STATUS:

(a) AN EDUCATIONAL INSTITUTION'S OR EDUCATIONAL SERVICE'S WAIVER OF ITS EXEMPT STATUS DOES NOT GUARANTEE THE APPROVAL OF THE EDUCATIONAL INSTITUTION OR EDUCATIONAL SERVICE AS A PRIVATE OCCUPATIONAL SCHOOL, AND AN EDUCATIONAL INSTITUTION OR EDUCATIONAL SERVICE THAT WAIVES EXEMPT STATUS PURSUANT TO THIS SUBSECTION (2) MUST APPLY FOR A CERTIFICATE OF APPROVAL AS DESCRIBED IN SECTION 23-64-114; AND

(b) UPON THE ISSUANCE OF A CERTIFICATE OF APPROVAL PURSUANT TO SECTION 23-64-115, THE EDUCATIONAL INSTITUTION OR EDUCATIONAL SERVICE SUBMITS TO ALL APPLICABLE PROVISIONS OF THIS ARTICLE 64 AND ANY RULES PROMULGATED IN ASSOCIATION WITH THIS ARTICLE 64 FOR THE FULL TERM OF THE CERTIFICATE OF APPROVAL.

SECTION 7. Appropriation. (1) For the 2021-22 state fiscal year, \$98,796 is appropriated to the department of higher education. This appropriation is from the private occupational schools fund created in section 23-64-122 (1), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$45,626 for use by the division of private occupational schools for program costs, which amount is based on an assumption that the division will require an additional 0.6 FTE; and

(b) \$53,170 for the purchase of legal services.

(2) For the 2021-22 state fiscal year, \$53,170 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of higher education under subsection (1)(b) of this section and is based on an assumption that the department of law will require an additional 0.3 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of higher education.

SECTION 8. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 23, 2021